

REMARKS/ARGUMENTS

The present amendment is submitted in an earnest effort to advance the case to issued without delay.

Independent claims 1, 9 and 10 have been amended to specify that the level of all lathering surfactant ranges from about 15 to about 60% by weight of the composition. Support for the 60% is found in original claim 1. Support for the "about 15%" is found among other places in Example 3. Sodium laureth sulphate (30% active) and cocoamidopropyl betaine (30% active) are present in respective amounts of 10.5 and 4.4% to total 14.9%. The total amount is therefore "about 15%".

Independent claims 8 and 9 have been amended to specify the lower end of the viscosity range as being "about 10,000". Support is found at page 6 (line 10).

Claims 1-9 were rejected under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over EP 1 149 574 (Kaneda et al.). Applicants traverse this rejection.

Applicants concur that the viscosity of 200-4,000 mPa.s corresponds with 200-4,000 cp. Kaneda et al. places the viscosity range as a keystone to their invention. It appears prominently in the single sentence Abstract. Furthermore, the reference states that: "When the viscosity of 25°C or 50°C is lower than the level as defined above (i.e., an emulsion of relatively low viscosity), it is impossible to ensure any sufficient liquid stability of the emulsion." Further, it is stated that: "When the viscosity exceeds the level as defined above (i.e., an emulsion of relatively high viscosity), the emulsion fails to

sufficiently remove make-up cosmetics and fails to impregnate into the sheet material.”
See paragraph [0014] at page 3, lines 16-19.

By contrast, applicants’ independent claims 8 and 9 specify a minimum viscosity of “about 10,000”. Not only are these claims novel, they are unobvious. Anyone skilled in the art reading Kaneda et al. would be warned to go no higher in viscosity than 4,000 cp. Applicants have shown that the best results are achievable above the “about 10,000” range but below the 300,000 cp level. See the comparative results under Example 3 at page 28-29.

Independent claims 1 and 10 are distinguished from the reference by the level of surfactant. The present invention is intended as a highly foaming system for facial cleansing. Kaneda et al. focuses upon the removal of oily make-up through a relatively non-foaming system. Contact of surfactant in Kaneda et al. is reported to range from 0.5 to 10% by weight, but preferably 0.5 to 5% by weight. See paragraph [0019] at page 3, lines 39-40.

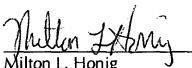
By contrast, applicants claim a level of surfactant which is at least about 15%. This level was utilized by applicants in their comparative tests under Example 3. Novelty is not lacking and those skilled in the art would understand from Kaneda et al. that formulations beyond 10% surfactant would not be effective.

Applicants note that EP ‘574 has a publication date of October 31, 2001. Applicants have an earlier filing date of October 29, 2001 with a claim to priority of May 14, 2001. EP ‘574 would therefore not be an appropriate reference. However, the Examiner may

wish to cite U.S. 2001/046948 published April 20, 2001 and which appears to be the U.S. equivalent of Kaneda et al.

In view of the foregoing amendment and comments, applicants request the Examiner to reconsider the rejection and now allow the claims.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Milton L. Honig", is written over a horizontal line.

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